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SECURITY AGREEMENT

INTERSTATE COMMERCE COMMISSION

THIS SECURITY AGREEMENT dated as of the 24<sup>th</sup> day of March, 1976, is made by WESTERN RAIL ROAD COMPANY, a Texas corporation whose address is 5303 Navigation, Houston, Texas (herein called the "Company"), with and to FIRST CITY NATIONAL BANK OF HOUSTON, a national banking association whose address is 1001 Main Street, Houston, Texas (herein called the "Bank");

W I T N E S S E T H:

This Security Agreement is entered into by the Company pursuant to the provisions of that certain Credit Agreement dated March 24<sup>th</sup>, 1976, between the Company and the Bank (herein called the "Credit Agreement") for the purposes of securing and enforcing the prompt, full and complete payment when due of (a) all indebtedness, obligations and liabilities of any kind of the Company now or hereafter owing to the Bank, pursuant to the Credit Agreement or any amendments or supplements thereto, including without limitation the loans made pursuant to the Credit Agreement, and (b) all obligations and liabilities of the Company now or hereafter arising under this Security Agreement (the obligations described in (a) and (b) above hereinafter called the "Indebtedness").

NOW, THEREFORE, in consideration of the premises and the covenants and agreements contained herein and in order to comply with and satisfy certain conditions contained in the Credit Agreement and in order to secure the Indebtedness, the Company does hereby grant to the Bank a security interest in and a general lien upon and a right of set-off against the following (hereinafter called the "Collateral"):

- (a) All personal property and fixtures of the Company, whether now or hereafter existing or now owned or hereafter acquired and wherever located, of every kind and description, tangible or intangible, including without limitation, Goods, Equipment, Inventory, Documents, Instruments, General Intangibles, Chattel Paper, Accounts, and the balance of every deposit account of the Company with the Bank;
- (b) Without in any way limiting the generality of the foregoing, all of the equipment and inventory described in Exhibit "A" which is attached hereto and made a part hereof for all purposes; and
- (c) All substitutes and replacements for, accessions, attachments, other additions to, and all proceeds and products of the property described in (a) and (b) immediately above.

## SECTION I

### 1.1 Representations, Warranties and Covenants:

Company represents, warrants and covenants that:

- (a) Company is the true and lawful owner of the Collateral and, except as previously revealed to Bank in writing by Company, (i) no financing statement or other instrument of hypothecation covering any of the Collateral or its proceeds is on file in any public office except in favor of Bank, and (ii) except for the security interest granted by this Security Agreement or as otherwise provided under the Credit Agreement there is no lien, security interest or encumbrance in or on any of the Collateral, except for landlord liens which are not yet due and payable.
- (b) Company's chief executive office, is located in Texas at the address indicated above. All Collateral is and will continue to be located in Texas, except as specifically otherwise specified in Exhibit "A".
- (c) The business, assets and properties of the Company will not be misused or abused, wasted or allowed to deteriorate and will not be used in violation of any statute or ordinance.
- (d) The Collateral will not be sold, transferred or disposed of by Company or be subjected to any unpaid charge including rent and taxes, or to any subsequent interest of a third person created or suffered by Company voluntarily or involuntarily unless allowed by the terms of the Credit Agreement.
- (e) Company will execute any Financing Statement or other document or procure any document and pay all connected costs necessary to protect the security interests created under this Security Agreement against the rights or interest of third persons.
- (f) Company will, at its own expense, do, make, procure, execute and deliver all acts, things, writings, and assurances as the Bank may at any time request to protect, assure or enforce the Bank's interest, rights and remedies created by, provided in, or emanating from this Security Agreement.
- (g) Company will pay all rent and lease payments in connection with the storage of the Collateral when same come due.

- (h) Company now maintains and will continue to maintain insurance, satisfactory in all respects to the Bank, covering the Collateral against risks of fire, theft and such other risks as the Bank may require, including extended coverage, and to the extent requested by the Bank, providing for payment of the proceeds thereof to the Bank and the Company, as their interests may appear, and for a minimum of 10 days' written notice to the Bank of cancellation. The Company shall furnish the Bank evidence satisfactory to the Bank of compliance with the foregoing provisions. The Bank may apply any proceeds of such insurance in payment on account of the Indebtedness whether due or not.

1.2 Events of Default:

Any of the following events or conditions shall constitute an "Event of Default":

- (a) Company's default in paying when due any indebtedness secured by this Security Agreement.
- (b) An "Event of Default" (as defined in the Credit Agreement) occurs.
- (c) Company's failure to perform any of the obligations, covenants, terms or provisions contained or referred to in this Security Agreement.
- (d) Any Representation or Warranty made by the Company herein proves to have been untrue in any material respect as of the date hereof.

1.3 Banks' Rights and Remedies:

- (a) The Bank may enter upon Company's premises or other location on which any of the Collateral may be located at any reasonable time to inspect the Collateral and Company's books and records pertaining to the Collateral, and Company shall assist the Bank in making any such inspection.
- (b) Bank may, at its option, discharge taxes, liens or security interests or other encumbrances at any time granted or pledged on the Collateral, and may pay for the maintenance and preservation of the Collateral as well as insurance premiums on policies covering the Collateral. Company agrees to reimburse Bank on demand for any payment made, or expense incurred by Bank pursuant to the foregoing authorization, plus interest thereon at the maximum rate permitted by law from demand until paid.
- (c) Upon the occurrence of an Event of Default, and at any time thereafter, Bank may, pursuant to the

terms of the Credit Agreement, declare all obligations secured hereby immediately due and payable and shall have the rights and remedies of a Secured Party under the Uniform Commercial Code of Texas, including without limitation thereto, the right to sell, lease or otherwise dispose of any or all of the Collateral and the right to take possession of the Collateral, and for the purpose, the Bank may enter at any time upon any premises on which the Collateral or any part thereof may be situated and remove the same therefrom. The Bank may require Company to assemble the Collateral and make it available to the Bank at a place designated by the Bank which is reasonably convenient to the parties. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Bank will send Company reasonable notice of the time and place of any public sale or other disposition thereof is to be made. Company agrees to reimburse Bank for all expenses of retaking, holding, preparing for sale, selling or the like, which shall include Bank's reasonable attorneys' fees and legal expenses, plus interest thereon at the maximum rate permitted by law from the date such expenses are paid by Banks until reimbursed by Company. Company shall remain liable for any deficiency.

- (d) The requirement of sending reasonable notice shall be met if such notice is deposited in the United States mail, certified or registered mail, postage prepaid, to the relevant party at its address designated at the beginning of this Security Agreement at least five (5) days before the action to be taken that is referred to in said notice.
- (e) Bank may remedy any default and may waive any default without waiving any other prior or subsequent default.
- (f) Bank shall have the right in its own name or in the name of the Company to demand, collect, receive, receipt for, sue for, compound and give acquittance for, as the Bank may require, any and all amounts due or to become due on the accounts and to endorse the name of the Company on all commercial paper given in payment or part payment thereof, and in its discretion to file any claim or take any other action proceeding which Bank may deem necessary or appropriate to protect and preserve and realize upon the security interest of Bank in the accounts and the proceeds thereof.
- (g) The remedies of the Bank hereunder are cumulative, and the exercise of any one or more of the remedies

provided for herein shall not be construed as a waiver of any of the other remedies of the Bank.

## SECTION 2

### 2.1 Unconditional Obligation of Company:

Anything herein contained shall not in anywise limit or be construed as limiting the Bank to collect any note, item, sum or amount secured and to be secured hereby only out of the personal properties assigned hereby or out of the revenues, monies, proceeds, benefits and payments accruing and to accrue to Company, under and by virtue of said Collateral, but it is expressly understood and provided that all Indebtedness and amounts secured and to be secured hereby are, and shall constitute, absolute and unconditional obligations of Company to pay to Bank the amount provided for in the notes and the instruments had in connection therewith and all agreements had with reference thereto at the time and in the manner therein specified or provided.

### 2.2 Collateral:

Company agrees that it will, from time to time, and upon request of the Bank, furnish satisfactory proof that the personal properties assigned hereby and the revenues, monies, proceeds, benefits and payments accruing and to accrue under said Collateral are free and clear of all lawful demands, claims and liens of any and all persons whomsoever, except as otherwise expressly stated herein and except for landlords liens not yet due and payable.

### 2.3 Reassignment of Property:

Upon full and complete payment of all sums owing and to be owing by Company to Bank, and all other indebtedness secured and to be secured hereby, together with all costs incurred in connection therewith, at the request and expense of Company, Bank will make, execute and deliver a release of these security interests and reassignment to Company of the personal properties assigned hereby and of the monies, revenues, proceeds, benefits and payments, if any, that may be owing thereon, but without covenant or warranty, however, of any kind or character, express or implied, and with the provision that Bank will not be required or called upon to refund or account for any payments properly made them which have or may be properly applied to any indebtedness secured or to be secured hereby.

### 2.4 Documentation:

Any and all other instruments had or to be had in connection with or as security for the payment of any indebtedness mentioned herein and secured or to be secured hereby, in law or in equity, shall be cumulative one of the other and not exclusive.

2.5 Definitions:

All capitalized terms used but not defined herein shall have the same meanings as those ascribed to them in the Uniform Commercial Code of Texas.

2.6 Successors:

All covenants and agreements hereunder of the Company shall bind its successors and assigns, and all rights and remedies of the Bank hereunder shall inure to the benefit of its successors and assigns.

WITNESS THE EXECUTION HEREOF, effective as of the 24<sup>th</sup> day of March, 1976.

WESTERN RAIL ROAD COMPANY

By *John W. Hill*  
Vice President

FIRST CITY NATIONAL BANK  
OF HOUSTON

By *John L. Broughton Jr.*  
Vice President

THE STATE OF TEXAS    §  
                                 §  
COUNTY OF HARRIS    §

BEFORE ME, the undersigned authority, on this day personally appeared *John M. Gills*, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the said WESTERN RAIL ROAD COMPANY, a Texas corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 24<sup>th</sup> day of March, 1976.

*Linda L. Skalak*  
Notary Public in and for  
Harris County, Texas

LINDA L. SKALAK  
Notary Public in and for Harris County, Texas  
My Commission Expires 3/1/78

THE STATE OF TEXAS §  
§  
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared John P. Bullington known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the said FIRST CITY NATIONAL BANK OF HOUSTON, a banking association, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 24<sup>th</sup> day of March, 1976.

Linda L. Skalak

Notary Public in and for  
Harris County, Texas

LINDA L. SKALAK  
Notary Public in and for Harris County, Texas  
My Commission Expires: 3/1/78

EXHIBIT "A"

One 1943 Diesel Electric Engine with a serial number  
of 42530-2241 owned by Western Rail Road Company.